IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No 1715 of 2004 & W.P. No.9037 OF 2004

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WRIT APPEAL No.1715 of 2004.

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/10/2004 in WVMP No.2973 of 2004 in WPMP No.11642 of 2004 in WP No. 9037 OF 2004 on the file of the High Court.)

Between:

Morampudi Ramesh, S/o Raghava Rao
Prop. Sri Veera Raghava Tea, Tiffen Mess, Near Bosu Bomma Centre, Tiruvur.

..... APPELLANT/PETITIONER

AND

1. The Environmental Engineer (FAC), A.P. Pollution Control Board, Regional Office, Vijayawada.
2. The District Collector, Krishna District at Vijayawada.
3 .The Panchayat Secretary, Tiruvuru Gram Panchayat, Krishna District.
4. Nalla China Bhadraiah, S/o Muthyamaiah,
R/o Tiruvuru,Krishna District.

.....RESPONDENTS/RESPONDENTS

WRIT PETITION NO : 9037 of 2004

Between:

Morampudi Ramesh S/o. Raghava Rao

Prop. Sri Veera Raghava Tea, Tiffin Mess Near Bosu Bomma Centre,
Thiruvuru, Krishna District.

..... PETITIONER

AND

1.The Environmental Engineer (FAC), A.P.Pollution Control Board, Regional Oflfice, Vijayawada.
2.The District Collecgtor, Krishna District at Vijayawada.
3.The Panchayat Secretary, Thiruvuru Gram Panchayat
Krishna District.
4.Nalla China Bhadraiah S/o. Mutyamaiah
R/o. Tiruvuru village and Mandal, Krishna District.
(R 4 is impleaded as per Court order dt. 28-9-2004 in WPMP 13330 of 2004)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the notice in Roc.No.580/03, dt:20.4.2004 issued by the third respondent as illegal, improper, unjust and contrary to law.

Counsel for the Appellant/Petitioner: Smt. Y.ANUPAMA DEVI

Counsel for the Respondent No1: Mr.S.V.Bhatt

SC for A.P.Pullution Control Board.

Counsel for Respondents 2 and 3: The Govt. Pleader for Panchayat Raj.

Counsel for Respondent No.4: Mr.K.Vinay Kumar.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

On the first respondent passing an order on 31.12.2003 with direction to the appellant to use LPG gas or any other clearer fuel in the place of rice husk and to provide proper exhaust system with sucking mechanism at the cooking area and to connect the exhaust fumes to a chimney which is at least 10 ft. above the nearest tall building with further direction that, in case, directions are not complied with, action,

in accordance with law, will be taken, and, on the 3rd respondent issuing notice dated: 20.4.2004 informing the appellant to remove the husk fire chullah immediately and use other clearer fuel in the place of it, otherwise, hotel will be closed, the appellant approached the Court questioning the said order. Interim order was passed in appellant's favour, and, on vacate application being filed, order impugned in the Appeal was passed holding that in view of the uncontroverted statement made by the fourth respondent, there is no balance of convenience in favour of the appellant. It was also observed that it would be open for the 3rd respondent to inspect the premises of the appellant again and if the appellant has removed rice husk chullah and started using LPG gas, the appellant be directed to continue the hotel.

The grievance of the appellant is that the appellant has started using LPG gas, but the small husk chulla is also being used as is being done by similarly situated persons in the same locality and there is no air pollution, and, there will be no need to issue any directions.

In such like matters of pollution, it will be for the first respondent to inspect the site to find out as to whether the appellant has or has not complied with its earlier directions. In case, appellant has stopped using the rice husk in main chulla for running tea, tiffin and mess center and is using rice husk only in small chulla as is being done by others and is causing no pollution, it will be for the first respondent to make fresh assessment of the pollution, if any, and pass appropriate orders, for which purpose, we are of the view that Writ Petition itself can be disposed of. Accordingly, we dispose of this Writ Appeal as well as Writ Petition filed by the appellant with direction to the first respondent to have fresh inspection carried out within a period of one month from the date of the receipt of a copy of the order, and, pass appropriate orders and in case, appellant feels aggrieved by the said order, it will be open for the appellant to take out appropriate proceedings in accordance with law. No costs.

DEVINDER GUPTA, C.J.

03.11.2004.

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C.V.RAMULU, J.

VR.

To

1.The Environmental Engineer (FAC), A.P.Pollution Control Board, Regional Office, Vijayawada.
2.The District Collecgtor, Krishna District at Vijayawada.
3.The Panchayat Secretary, Thiruvuru Gram Panchayat
Krishna District.

4. Two CCs to Government Pleader for Panchayat Raj, High Court Buildings, Hyderabad.

5. Two CD copies.